

United States Court of Appeals For the First Circuit

No. 12-1047

UNITED STATES,

Appellee,

v.

DEMONE COLEMAN,

Defendant, Appellant.

Lynch, Chief Judge,
Torruella and Thompson, Circuit Judges.

JUDGMENT

Entered: June 12, 2013

Defendant has appealed from the district court's denial of a § 3582(c)(2) motion for sentencing relief, and the government has moved for summary disposition. While we find no abuse of discretion in the denial or in the district court's consideration of defendant's prison disciplinary record, we nevertheless remand to the district court for reconsideration.

In its motion for summary disposition, the government acknowledges that the parties' joint status report mistakenly informed the district court that, apart from the effect of the 60 month statutory mandatory minimum, defendant's guideline range under the 2011 amendments would have been **37-46** months, whereas the correct range is **9-15** months. As this error on the parties' part may (or may not) have influenced the district court's assessment of whether to grant sentencing relief, we vacate the district court's December 27, 2011 order denying the § 3582(c)(2) motion and remand for further consideration.

Vacated and remanded.

By the Court:
/s/ Margaret Carter, Clerk.

cc:

William Young, Judge, US District Court of Massachusetts
Robert Farrell, Clerk, US District Court of Massachusetts
Dina Chaitowitz, John Wortmann, Jr., Demone Coleman